

IN RE: PETITION FOR ADMIN. VARIANCE

West side of Oakland Road, at NW corner
of Robin Court
13th Election District
1st Councilmanic District
(5724 Oakland Road)

Wayne and Leslie McCullough
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2009-0262-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Wayne and Leslie McCullough for property located at 5724 Oakland Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (gazebo) to be located on the third of a lot closest from a street in lieu of the required third of a lot farthest removed, and to permit an existing dwelling to have a front yard setback as close as 24 feet, a side yard setback as close as 3 feet, and a rear yard setback as close 5 feet in lieu of the required 25 feet, 7 feet and 15 feet, respectively. Petitioners wish to install a gazebo measuring 12 feet x 16 feet. The subject property is located at the corner of Oakland Road and Robin Court, and the dwelling does not face either road directly, but is constructed at an angle to both roads. The dwelling was constructed in 1955 and placed in such a way on the property that the right side of the home was constructed only 5 feet from the rear property line and only 3 feet from the side property line. The proposed gazebo will be 20 feet from the rear property line and 20 feet from the side property. Photographs submitted clearly show that the Petitioners' property is much lower than the properties of 1202 Robin Court and 5722 Oakland Road. Petitioners receive considerable water runoff from these adjacent properties and the backyard

remains wet long after the rains have stopped. Petitioners installed an underground French drain in an attempt to control the water in the back yard, but the area remains wet long after it rains. The gazebo will be constructed at the end of the existing deck which will make it more accessible for the Petitioners. Petitioners provided a photograph of the proposed gazebo which is very attractively designed. The case file contains a notarized letter from Diane C. Purteil, who resides behind the Petitioners at 1202 Robin Court. In this letter Ms. Purteil states that she is aware of the Petitioners' plans for the gazebo and its encroachment into the setback adjacent to her property, and she does not have any objection to the proposal. None of the neighbors expressed any concern about the gazebo.

The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 19, 2009 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the

B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners. The configuration of the property and the placement of the home on the property severely limits where the Petitioners can install the gazebo. The water runoff and wet backyard limits the Petitioners' ability to enjoy their back yard.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12th day of May, 2009 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (gazebo) to be located on the third of a lot closest from a street in lieu of the required third of a lot farthest removed, and to permit an existing dwelling to have a front yard setback as close as 24 feet, a side yard setback as close as 3 feet, and a rear yard setback as close 5 feet in lieu of the required 25 feet, 7 feet and 15 feet, respectively is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz